



ORGANIZATION FOR THE PROTECTION
AND ADVANCEMENT OF SMALL
TELEPHONE COMPANIES

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WASHINGTON, D.C. 20036
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March 18, 1996

Mr. William F. Caton
Secretary
Federal Communications Commission
Room 222
1919 M Street, NW
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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Re: Revision of Part 22 and Part 90 of the
Commission's Rules to Facilitate Future
Development of Paging Systems
WT Docket No. 96-18

Implementation of Section 309(j)
of the Communications Act --
Competitive Bidding
PP Docket No. 93-253

Dear Mr. Caton:

Please find enclosed for filing the original and nine copies of the Organization for the Promotion and Advancement of Small Telecommunications Companies' comments in the above-captioned proceeding.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa M. Zaina", is written over a horizontal line.

Lisa M. Zaina
General Counsel

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

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**COMMENTS OF
THE ORGANIZATION FOR THE PROMOTION AND
ADVANCEMENT OF SMALL TELECOMMUNICATIONS COMPANIES**

**OPASTCO
21 Dupont Circle, NW
Suite 700
Washington, DC 20036
(202) 659-5990**

March 18, 1996

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

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**COMMENTS OF
THE ORGANIZATION FOR THE PROMOTION AND
ADVANCEMENT OF SMALL TELECOMMUNICATIONS COMPANIES**

I. INTRODUCTION

On February 9, 1996, the Federal Communications Commission (FCC or Commission) released the text of a Notice of Proposed Rulemaking¹ concerning a new regulatory approach for the licensing of paging services. The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO)

¹In the Matter of Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems, WT Docket No. 96-18, Implementation of Section 309(j) of the Communications Act -- Competitive Bidding, PP Docket No. 93-253, Notice of Proposed Rulemaking, 61 FR 6199 (February 16, 1996). (Notice, NPRM)

hereby submits its comments in response to the Commission's NPRM.

OPASTCO is a national trade association of more than 450 independently owned and operated telephone companies serving rural areas of the United States and Canada. Its members, which include both commercial companies and cooperatives, together serve over two million customers. Approximately 30 percent of OPASTCO members offer paging services to their rural customers. Consequently, OPASTCO has a significant interest in this proceeding.

OPASTCO believes that the Commission's proposal to license paging channels on a geographic basis via competitive bidding would threaten the existence of the numerous small business entrepreneurs who currently provide and utilize paging in small markets. Accordingly, OPASTCO recommends that the Commission maintain its current paging licensing procedures, at least for the channels located in the 150-159 and 450-459 MHz bands where most small companies operate. In addition, as the Commission has previously recognized,² it is not in the public interest to use competitive bidding to select between applications for Basic Exchange Telephone Radio Systems (BETRS) and paging as this may

²See, Competitive Bidding Second Report and Order, 9 FCC Rcd at 2356, para. 46.

leave some rural Americans without any basic local exchange service.

II. A GEOGRAPHIC LICENSING APPROACH FOR PAGING WOULD THREATEN THE CONTINUED VIABILITY OF SMALL INCUMBENT PAGING LICENSEES

The FCC's current licensing procedures for paging have served small entrepreneurs well. It has allowed small telecommunications companies to successfully provide common carrier paging (CCP) to underserved regions of the country as well as having allowed other small business entities to utilize private carrier paging (PCP) in tandem with their operations. OPASTCO is concerned that the FCC's proposal to auction paging licenses in large, pre-defined geographic blocks would create great uncertainty for the many small businesses that provide and utilize paging.

Small telecommunications companies that offer paging have built successful businesses through serving niche markets. These rural experts serve the public interest by providing quality telecommunications services that are tailored to the communities that they serve. When obtaining their paging licenses, small companies were under the impression that they would be able to build out their service, transmitter-by-transmitter, at their own pace, based on sound business decisions. If the Commission were

to suddenly shift to a geographic licensing approach, the expansion plans of small providers would come to a crashing halt, possibly forcing some to exit the market.

A small paging provider would have little hope of successfully bidding against deep-pocketed companies for a large, pre-defined geographic area such as a major trading area (MTA). Once the geographic license is auctioned off, according to the Commission's proposed rules, a small company could no longer expand the range of its paging business beyond its existing interfering contour.³ While the Commission states that incumbents would be free to negotiate voluntary arrangements with geographic licensees for expansion,⁴ in reality, it would be highly difficult for most incumbent small companies to receive equitable terms with the geographic licensee for expanding its existing service area. Once confined to operate only within its existing service area with no opportunity to expand, the small paging provider's business would be devalued, both in terms of what the service is worth to customers and to prospective buyers.

³Notice at para. 37.

⁴Notice at para. 39.

In addition to the small telecommunications companies providing CCP service, there are also other small, non-telecommunications businesses that the Commission's licensing proposals would adversely impact. For example, taxi cabs and ambulances frequently utilize PCP channels. For these and other businesses, paging is a crucial element to their day-to-day operation and therefore, as the business expands, so too must the operating range of the paging system. The Commission should consider the crippling effect that its proposed licensing scheme would have on these businesses and the communities that they serve if they were unable to expand beyond their existing interfering contour.

In order to avert this damaging impact on small paging operators and customers, OPASTCO recommends that the Commission maintain its current policy of issuing individual licenses on a transmitter-by-transmitter basis. At the very least, the status quo should be maintained for all paging channels located in the 150-159 and 450-459 MHZ bands where most small providers operate. If the Commission is compelled to introduce competitive bidding for paging licenses, OPASTCO would recommend that it limit auctions to the channels in the 900 MHZ bands where the majority of operators are developing wide-area systems and thus a

geographic licensing approach would not have that great of an impact on small companies.

III. AUCTIONING SPECTRUM FOR BETRS WOULD UNDERMINE UNIVERSAL SERVICE AND SUBSCRIBER PENETRATION

The Commission notes in the NPRM that the paired 152/158 and 454/459 MHz channels are shared by paging and BETRS.⁵ The Commission also notes that in its Competitive Bidding Second Report and Order,⁶ because of the public interest in extending basic telephone service to sparsely populated areas, competitive bidding should not be used to select between BETRS and Public Mobile applicants.⁷ OPASTCO believes that this policy continues to be appropriate and in the public interest, regardless of the advent of new wireless services such as PCS.

BETRS is used by local exchange carriers (LECs) to provide local telephone service to customers where it is either prohibitively expensive or geophysically impossible to extend landline service. As the "carrier of last resort," an incumbent LEC has an obligation to offer reasonably priced service to all customers in its service area. Requiring LECs to bid for these

⁵Notice at para. 29.

⁶9 FCC Rcd 2348.

⁷Notice at para. 29.

licenses would hamstring their ability to fulfill this obligation. More significantly, the Commission would be gambling citizens' basic telephone service on the "expectation" that another provider will fill in the gap.

If the Commission were to use competitive bidding to choose between BETRS and paging applicants, and the paging provider won the license, there is no guarantee that a PCS or other wireless provider would provide basic telephone service to these remote customers. In addition, wireless service providers that did choose to provide local service would not necessarily have a "carrier of last resort" obligation and could pick and choose their customers, leaving the most remotely located customers without service. And, even if the LEC were to obtain the BETRS license through competitive bidding, the cost of the winning bid may force rates for these customers to increase. Thus, by requiring LECs to bid for their BETRS spectrum, the Commission would risk defying the 1996 Telecommunications Act's requirements

for universal service policy⁸ as well as jeopardize the FCC's goal to increase subscriber penetration.⁹

Finally, as a matter of policy, it is highly illogical to use competitive bidding to decide between two entirely different services, with completely different purposes and with different intrinsic values. Few would disagree that providing basic exchange service to all who desire it is far more essential than the provision of paging service. Up to now, the Commission has never put a "price" on its universal service policies. OPASTCO urges the Commission to ensure that the public interest is its top priority.

⁸The Telecommunications Act of 1996 lists seven principles on which the Commission's policies for the preservation and advancement of universal service must be based. One of those principles concerns access in rural and high cost areas and states that "consumers of all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas." Pub. L. No. 104-104, 110 Stat. 56, Sec. 101 "Sec. 254(b)(3)" (1996).

⁹See, In the Matter of Amendment of the Commission's Rules and Policies to Increase Subscribership and Usage of the Public Switched Network, CC Docket No. 95-115, Notice of Proposed Rulemaking, 60 FR 44296 (August 25, 1995).

IV. CONCLUSION

Paging is a thriving, established service and OPASTCO believes that it is inherently unfair to existing small paging operators for the FCC to switch to a geographic licensing approach this "late in the game." Overhauling the rules now would only serve to favor capital-rich companies at the expense of the many established small entrepreneurs that have worked hard to provide paging in rural areas. OPASTCO therefore urges the Commission to maintain its current licensing regulations for paging -- at the very least for the channels in the 150-159 and 450-459 MHZ bands.

In addition, competitive bidding must not be used to select between mutually exclusive BETRS and paging applications. To do so could leave remote, rural subscribers stranded without local service, undermining Congress' and the Commission's commitment to universal service. By following these recommendations, the Commission will help to ensure that there is still a place in the paging industry for small entrepreneurs serving niche markets and that all Americans continue to have access to the public switched telephone network.

Respectfully submitted,

**THE ORGANIZATION FOR THE
PROMOTION AND ADVANCEMENT OF
SMALL TELECOMMUNICATIONS COMPANIES**

By: Stuart Polikoff
Stuart Polikoff
Regulatory and
Legislative Analyst

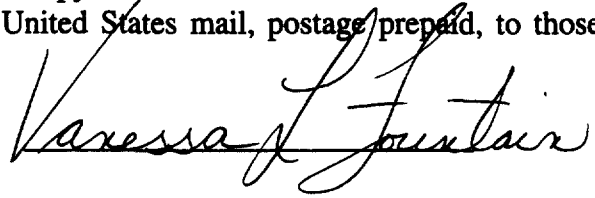
By: Lisa M Zaina
Lisa M. Zaina
General Counsel

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March 18, 1996

CERTIFICATE OF SERVICE

I, Vanessa L. Fountain, hereby certify that a copy of OPASTCO's comments was sent on this, the 18th day of March, 1996 by first class United States mail, postage prepaid, to those listed on the attached sheet.

A handwritten signature in cursive script that reads "Vanessa L. Fountain". The signature is written in black ink and is positioned above the printed name.

Vanessa L. Fountain

SERVICE LIST
WT Docket No. 96-6
PP Docket No. 93-253

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